

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
MAX SOLIZ SR. et al.,  
  
Defendants.

No. 2:23-cv-001942 CKD

ORDER

Plaintiff United States of America (“United States”) brings this action against multiple defendants to foreclose federal tax liens associated with outstanding federal tax debt owed by defendants Max and Judith Soliz (“the Solizes”). ECF No. 1. In an earlier federal action, the Solizes stipulated that they owed \$580,225.01 in unpaid income tax (plus interest and penalties) for the years 2002 to 2010, and judgment was entered in favor of the United States. ECF No. 1 at ¶¶ 17-18; ECF No. 1-2 at 2. In the instant action, the United States seeks to foreclose its liens on a parcel of real property located in Grass Valley (the “Alexandra Way Property”). The complaint names the Solizes as defendants, along with three institutional defendants—Sunrun Inc., the California Franchise Tax Board, and Nevada County, California—each of whom allegedly “may claim an interest in the real property at issue.” ECF No. at ¶¶ 7-9.

This action was filed on September 8, 2023. ECF No. 1. On October 2, 2023, the

1 California Franchise Tax Board (“FTB”) answered the complaint, stating that it “claims an  
2 interest in” the Alexandra Way Property. ECF No. 6 at ¶8. In its prayer for relief, the FTB  
3 requests that the court “determine the amounts and relative priorities of any liens against the  
4 Property and order payment to the FTB from the proceeds of any foreclosure sale of the Property,  
5 in accordance with the amount and priority of FTB’s liens[.]” *Id.* at 5.

6 Defendants Sunrun and Nevada County did not timely answer the complaint, and on  
7 November 17, 2023, the clerk entered default as to these defendants. ECF No. 12. The Solizes  
8 requested and were granted an extension of time to file their answer by February 5, 2024. ECF  
9 Nos. 14.


10 On December 11, 2023, the United States filed a motion for default judgment against  
11 defendant Sunrun. ECF No. 15. The government seeks an order that “any interest Sunrun Inc.  
12 may have had in the real property at issue in this case is extinguished.” ECF No. 15-1. In its  
13 motion, the United States argues that, if the motion for default judgment is not granted, it “will  
14 suffer prejudice because it will not be able to sell the subject property with clear title to satisfy  
15 [the Solizes’] federal tax liabilities.” ECF No. 15 at 2.

16 However, the Solizes have yet to answer the complaint, and the property cannot be sold  
17 until the priority and amount of FTB’s interest is determined. Under Federal Rule of Civil  
18 Procedure 54(b), “when multiple parties are involved, the court may direct entry of a final  
19 judgment as to one or more, but fewer than all, of the claims or parties only if the court expressly  
20 determines that there is no just reason for delay.” Here, the court is reluctant to enter a default  
21 judgment against any defendant when the main defendants, the Solizes, have not yet participated  
22 in the case in any meaningful way, pending their February 5, 2024 response to the complaint.  
23 Nor will the United States be prejudiced by delaying the resolution of Sunrun’s interest in the  
24 property until later in this litigation, after all parties who choose to participate have been heard  
25 from. “There is just reason to delay the entry of default judgment when there are multiple  
26 defendants—only some of whom have defaulted—and the court has not yet adjudicated the  
27 claims as to the non-defaulting defendants.” Shenzhenshi Haitiecheng Sci. & Tech. Co., Ltd. v.  
28 Rearden LLC, No. 15-cv-00797-JST, 2016 WL 5930289, at \*13 (N.D. Cal. Oct. 11, 2016)

(delaying entry of default judgment on claim for declaratory relief concerning ownership of assets to avoid risk of inconsistent judgments).

Accordingly, the plaintiff's motion for default judgment (ECF No. 15) is DENIED WITHOUT PREJUDICE TO RENEWAL at a later stage of this action, and the January 31, 2024 hearing on the motion is VACATED.

Dated: January 22, 2024

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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